

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

CARNEGIE INSTITUTION OF
WASHINGTON and M7D CORPORATION,

Plaintiffs,

v.

Civil Action No. 1:20-cv-00200-JSR

FENIX DIAMONDS LLC,

Defendant.

**DECLARATION OF WEI-CHIH HSU IN SUPPORT OF REPLY IN SUPPORT OF
FENIX'S MOTION FOR ATTORNEY FEES AND OTHER NON-TAXABLE EXPENSES**

I, Wei-Chih Hsu, declare the following under penalty of perjury and pursuant to 28 U.S.C. § 1746:

I am an attorney admitted *pro hac vice* before this Court and an Associate with the law firm of Crowell & Moring, LLP, counsel for Defendant Fenix Diamonds LLC (“Fenix”). I submit this declaration to place in record before the Court true and correct copies of exhibits cited in Reply in Support of Fenix’s Motion for Attorney Fees and Other Non-Taxable Expenses.

1. Attached as Exhibit 34 is a true and correct copy of an Excel spreadsheet entitled "M7D Corporation All Transactions for Carnegie Institute of Washington," which was marked as Exhibit 25 to the deposition of Emily Williams taken August 20, 2020 and was designated as Highly Confidential by Plaintiffs.

2. Attached as Exhibit 35 is a true and correct copy of excerpts from the deposition of Emily Williams, dated August 20, 2020, which were designated as Highly Confidential.

3. Attached as Exhibit 36 is a true and correct copy of excerpts from the deposition of Karen K. Gleason, Ph.D., dated October 22, 2020, which were designated as Highly Confidential.

4. Attached as Exhibit 37 is a true and correct copy of excerpts from the Highly Confidential Rebuttal Expert Report of Dr. John Martens Regarding U.S. Patent 6,585,078, dated October 9, 2020.

5. Attached as Exhibit 38 is a true and correct copy of excerpts from the Highly Confidential deposition of Michael Capano, Ph.D., dated October 23, 2020.

6. Attached as Exhibit 39 is a true and correct copy of communications from Fenix to Plaintiffs' Counsel dated between March and August 2020.

- March 26, 2020 Letter from Steven Sklar to Plaintiffs' Counsel
- July 15, 2020 Email from Steven Sklar to Plaintiffs' Counsel
- July 17, 2020 Letter from Nicole Kopinski to Plaintiffs' Counsel
- August 13, 2020 Email from Steven Sklar to Plaintiffs' Counsel

7. Attached as Exhibit 40 is a true and correct copy of an email dated January 7, 20120 from Sue Rechner to Carl Lichtenfels with attachment, which were marked as Exhibits 18 and 19 to the deposition of Susanne Rechner taken August 27, 2020 and were designated as Highly Confidential by Plaintiffs.

8. Attached as Exhibit 41 is a true and correct copy of a letter from Sarah Fowler to Nicole Kopinski dated June 19, 2020.

9. Attached as Exhibit 42 is a true and correct copy of excerpts from the Highly Confidential Expert Report of David E. Yurkerwich, dated October 9, 2020.

10. Attached as Exhibit 43 is a true and correct copy of webpages regarding Carnegie Institution of Washington captured from Pro Publica at <https://projects.propublica.org/nonprofits/organizations/530196523> archived on November 9, 2023.

11. Attached as Exhibit 44 is a true and correct copy of Defendant Fenix Diamonds LLC's Notice of Subpoenas to the UAB Research Foundation dated August 17, 2020.

12. Attached as Exhibit 45 is a true and correct copy of Order of the Federal Circuit for the Case No. 21-2249, dated January 3, 2022.

Executed on November 10, 2023 in Naperville, Illinois.

/s/ Wei-Chih Hsu
Wei-Chih Hsu